

ESTTA Tracking number: **ESTTA321298**

Filing date: **12/10/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91191735
Party	Defendant Cheney, Kenneth Michael
Correspondence Address	KENNETH MICHAEL CHENEY Applicant 1830 Hollyview Drive San Ramon, CA 94582 UNITED STATES michael@verumsports.com
Submission	Answer
Filer's Name	Kenneth Michael Cheney
Filer's e-mail	michael@verumsports.com, kmcheney@hotmail.com
Signature	/KennethMichael Cheney/
Date	12/10/2009
Attachments	ANSWER CHENEY[1].pdf ( 7 pages )(32564 bytes )



No 77/117258 for clothing, sports clothing, apparel and outerwear, namely, t-shirts, shirts, golf shirts, tops, bottoms, shorts, sweat pants, athletic uniforms; outer jackets; sports uniforms; hats; caps; headwear (as amended). Applicant also states that his current address is 1830 Hollyview Drive in San Ramon, CA 94582.

1. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Notice of Opposition and, therefore, denies same.

2. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice of Opposition and, therefore, denies same.

3. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3 of the Notice of Opposition and, therefore, denies same.

4. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 4 of the Notice of Opposition and, therefore, denies same.

5. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 5 of the Notice of Opposition and, therefore, denies same.

6. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of the Notice of Opposition and, therefore, denies same.

7. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of the Notice of Opposition and, therefore, denies same.

8. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 8 of the Notice of Opposition and, therefore, denies same.

9. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Notice of Opposition and, therefore, denies same.

10. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 10 of the Notice of Opposition and, therefore, denies same.

11. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Notice of Opposition and, therefore, denies same.

12. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Notice of Opposition and, therefore, denies same.

13. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice of Opposition and, therefore, denies same.

14. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of the Notice of Opposition and, therefore, denies same.

15. To the extent that Paragraph 15 purports to set forth a conclusion of law, no response pleading is required. Except as expressly stated herein, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Notice of Opposition and, therefore, denies same.

16. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Notice of Opposition and, therefore, denies same.

17. Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Notice of Opposition and, therefore, denies same.

18. To the extent that Paragraph 18 purports to set forth a conclusion of law, no response pleading is required. Except as expressly stated herein, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Notice of Opposition and, therefore, denies same.

19. To the extent that Paragraph 19 purports to set forth a conclusion of law, no response pleading is required. Except as expressly stated herein, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Notice of Opposition and, therefore, denies same.

20. To the extent that Paragraph 20 purports to set forth a conclusion of law, no response pleading is required. Except as expressly stated herein, Applicant is without

knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 20 of the Notice of Opposition and, therefore, denies same.

21. To the extent that Paragraph 21 purports to set forth a conclusion of law, no response pleading is required. Except as expressly stated herein, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Notice of Opposition and, therefore, denies same.

Answering the WHEREFORE clause on page 5, Applicant denies that the requested relief should be granted. Applicant is without knowledge or information sufficient to form a belief as to the truth of the other allegations contained in the WHEREFORE clause of the Notice of Opposition and, therefore, denies same.

**ANSWER TO ALL ALLEGATIONS**

Applicant denies each and every allegation in the Notice of Opposition except as specifically admitted in the answer.

**AFFIRMATIVE DEFENSES**

Applicant sets forth its affirmative defenses below. By setting forth these affirmative defenses, Applicant does not assume the burden of proving any fact, issue or element of a cause of action where such burden properly belongs to Opposer. Moreover, nothing stated herein is intended or shall be construed as an acknowledgement that any particular issue or subject matter is relevant to Opposer's allegations.

1. Applicant's mark and Opposer's marks are not confusingly similar.
2. Opposer has not suffered nor is likely to suffer any injury or harm to its business or property by reason of registration of Applicant's mark in connection with the goods listed in the application.

3. Applicant hereby gives notice that it intends to rely on any additional affirmative defenses that become available or apparent during discovery and thus reserves the right to amend its answer to assert such additional affirmative defenses.

**PRAYER FOR RELIEF**

WHEREFORE, Applicant respectfully requests that the opposition be denied and that Applicant’s application, Serial No. 77/117258 be approved for registration forthwith.

It is believed that no fee is required for filing this paper.

Please direct all correspondence to:

Kenneth Michael Cheney  
1830 Hollyview Drive  
San Ramon, CA 94582

Respectfully submitted,

Kenneth Michael Cheney

December 10, 2009  
Date

\_\_\_\_Kenneth Michael Cheney (signed)\_\_\_\_  
Kenneth Michael Cheney

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing ANSWER TO THE NOTICE OF OPPOSITION was served, via first-class mail, postage prepaid to:

Kelly R. McCarty  
Howrey LLP  
2941 Fairview Park Drive, Suites 200 and 300  
FALLS CHURCH, VA 22042  
UNITED STATES

this \_\_\_\_\_ day of December 2009.

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Kenneth Michael Cheney